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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/304,906	05/04/1999	RALPH E. SIPPLE	33012/264/10	1322

27516 7590 12/14/2005

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EXAMINER

TRAN, HAI V

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 12/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 09/304,906	Applicant(s) SIPPLE ET AL.	
	Examiner Hai Tran	Art Unit 2611	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 25 November 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

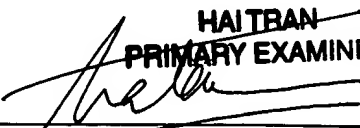
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____
 Claim(s) objected to: _____
 Claim(s) rejected: 1-25.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
 13. ☐ Other: _____.

HAITRAN
PRIMARY EXAMINER


Continuation of 3. NOTE: Amended claims 1-2,6,8,14 and 25 raise new issues because newly added and removed limitations change the scope of the amended claims.

Claim 1, Applicant argues, "Wang is readily distinguishable over claim 1 because el. 110 and 120 employ the same processors. Col. 4, lines 41-42, states: ...CPU 112 (preferably a Pentium microprocessor manufactured by Intel Corporation). Similar, col. 5, lines 1-25 is preferably a Pentium processor manufactured by the Intel Corporation... thus, Wang cannot have the modularity and efficiency of the claimed invention as taught throughout Applicant's specification, because it utilizes the same processor for both applications."

In response, the Examiner agrees with applicant that Wang suggests the use of Pentium processors from Intel; however, limitations "1st processor" and "2nd processor" claimed is not what Applicant intends to claim, i.e. "1st CPU" or "2nd CPU". By definition, "a processor" is the part of a computer system that operates on data", see Merriam-Webster's Collegiate Dictionary, 10th edition. As such, "a processor" is broadly interpreted as any part of the WANG computer system that operates on data. In the office action, the Examiner indicates that Fig. 1A, el. 112 corresponds to Applicant 1st processor and el. 120 (as broadly interpreted) corresponds to Applicant 2nd processor, but not CPU 125, as argued by Applicant (note: el. 120 has CPU 125 and decoder 121 in which either one of them is a "processor"). In view of that, Wang's el. 112 (1st processor) is different from Wang's el. 120 or Wang's el. 12 (2nd processor). Applicant is suggested to further amend limitation "processor" to be more specific.

Claim 4, Applicant further argues, "the Examiner again fails to show any authority which permits him to read the "computer" of Wang as the claimed "television set."

In response, the Examiner believes Applicant is confused because Claim 4 recites:

"the video on demand system of claim 1 wherein said 1st processor further comprises a transaction server responsively coupled to said subscribing receiver and said video server memory." As such, the Examiner permits to read el. 101, Fig. 1A of Wang is a "subscribing receiver" and not "television set", as applicant alleged.


Claim 6, Applicant further argues, "it is not understood how the Examiner can find one "control input source" to be the same as the claimed two "subscribing television receivers".

In response, the Examiner intends to indicate Fig. 1 el. 150 shows at least three video clients 101 coupled to a video server 105, see Col.6, lines 1-6. As such, clients 101 are "subscribing television receivers".

Claim 12, Applicant argues, "Applicants' do not claim a "computer box". They claim a "subscriber box".

In response, the Examiner respectfully disagrees because Wang discloses a VOD system in which clients subscribe to the VOD service. As such, clients become subscribers. A subscriber uses a device to request video programs. Such device is a client device/subscriber device/computer device/computer box/subscriber box, etc....

Claim 11, Applicant indicates that apparatus claim having means-plus-function is noted.



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PRIMARY EXAMINER